



January 14, 2004

SENATE BILL No. 183

DIGEST OF SB 183 (Updated January 13, 2004 1:36 pm - DI 77)

Citations Affected: IC 4-13.6; IC 14-8; IC 14-20; IC 14-24; IC 14-37.

Synopsis: Natural resource matters. Increases the cost of projects that the department of natural resources may perform without awarding a public works contract from \$50,000 to \$75,000. Makes changes to the organization and duties of the division of state museums and historic sites. Establishes the historic site fund and requires fees to be deposited in the fund. Provides that at least 51% of the fees collected from a particular historic site must be used for educational programs at the historic site and for maintenance and operation of the historic site. Adopts the pest control compact. Establishes procedures to obtain funds from the pest control insurance fund. Increases penalties for violation of certain oil and gas well laws. Makes technical corrections. (The introduced version of this bill was prepared by the natural resources study committee.)

Effective: April 1, 2004; July 1, 2004.

Weatherwax

January 6, 2004, read first time and referred to Committee on Natural Resources.
January 13, 2004, amended, reported favorably — Do Pass.

C
o
p
y

SB 183—LS 6694/DI 77+



January 14, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 183

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-13.6-5-4, AS AMENDED BY P.L.12-2002,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 4. (a) If the estimated cost of a public works
4 project is less than seventy-five thousand dollars (\$75,000), the
5 division may perform the public work without awarding a public works
6 contract under section 2 of this chapter. In performing the public work,
7 the division may authorize use of equipment owned, rented, or leased
8 by the state, may authorize purchase of materials in the manner
9 provided by law, and may authorize performance of the public work
10 using employees of the state.
11 (b) If a public works project involves a structure, improvement, or
12 facility under the control of the department of natural resources, the
13 department of natural resources may purchase materials for the project
14 in the manner provided by law and without a contract being awarded,
15 and may use its employees to perform the labor and supervision, if:
16 (1) the department of natural resources uses equipment owned or
17 leased by it; and

SB 183—LS 6694/DI 77+



C
o
p
y

(2) the division of engineering of the department of natural resources estimates the cost of the public works project will be less than ~~fifty~~ **seventy-five** thousand dollars (~~\$50,000~~). (**\$75,000**).

(c) If a public works project involves a structure, improvement, or facility under the control of the department of correction, the department of correction may purchase materials for the project in the manner provided by law and use inmates in the custody of the department of correction to perform the labor and use its own employees for supervisory purposes, without awarding a contract, if:

(1) the department of correction uses equipment owned or leased by it; and

(2) the estimated cost of the public works project using employee or inmate labor is less than the greater of:

(A) fifty thousand dollars (\$50,000); or

(B) the project cost limitation set by IC 4-13-2-11.1.

All public works projects covered by this subsection must comply with the remaining provisions of this article and all plans and specifications for the public works project must be approved by a licensed architect or engineer.

SECTION 2. IC 14-8-2-49.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 49.2. "Compact", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(8).**

SECTION 3. IC 14-8-2-77, AS AMENDED BY P.L.145-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: Sec. 77. "Division" has the following meaning:

(1) For purposes of IC 14-9-8, the meaning set forth in IC 14-9-8-2.

(2) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-2.

(3) For purposes of **IC 14-20-1.1** and IC 14-21-1, the meaning set forth in IC 14-21-1-6.

(4) For purposes of IC 14-22, the division of fish and wildlife.

(5) For purposes of IC 14-24, the division of entomology and plant pathology.

(6) For purposes of IC 14-25.5, the division of water.

(7) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.

(8) For purposes of IC 14-37, the division of oil and gas.

SECTION 4. IC 14-8-2-86.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 86.5. "Executive committee", for purposes of**

C
o
p
y



IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(7).

SECTION 5. IC 14-8-2-107, AS AMENDED BY P.L.186-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.

(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.

(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.

(5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

(6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

(7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.

(8) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.

(9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.

(10) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-30.

(11) For purposes of IC 14-19-8, the meaning set forth in IC 14-19-8-1.

(12) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.

(13) For purposes of IC 14-20-1.1, the meaning set forth in IC 14-20-1.1-1.

(14) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.

~~(14)~~ **(15)** For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.

~~(15)~~ **(16)** For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.

~~(16)~~ **(17)** For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.

~~(17)~~ **(18)** For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.

~~(18)~~ **(19)** For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.

C
o
p
y



- 1 ~~(19)~~ **(20)** For purposes of IC 14-23-3, the meaning set forth in
 2 IC 14-23-3-1.
 3 ~~(20)~~ **(21)** For purposes of ~~IC 14-23-8~~, **IC 14-24-4.5**, the meaning
 4 set forth in ~~IC 14-23-8-1~~, **IC 14-24-4.5-2(5)**.
 5 ~~(21)~~ **(22)** For purposes of IC 14-25-2-4, the meaning set forth in
 6 IC 14-25-2-4.
 7 ~~(22)~~ **(23)** For purposes of IC 14-25-10, the meaning set forth in
 8 IC 14-25-10-1.
 9 ~~(23)~~ **(24)** For purposes of IC 14-25-11-19, the meaning set forth
 10 in IC 14-25-11-19.
 11 ~~(24)~~ **(25)** For purposes of IC 14-25.5, the meaning set forth in
 12 IC 14-25.5-1-3.
 13 ~~(25)~~ **(26)** For purposes of IC 14-28-5, the meaning set forth in
 14 IC 14-28-5-2.
 15 ~~(26)~~ **(27)** For purposes of IC 14-31-2, the meaning set forth in
 16 IC 14-31-2-5.
 17 ~~(27)~~ **(28)** For purposes of IC 14-25-12, the meaning set forth in
 18 IC 14-25-12-1.
 19 ~~(28)~~ **(29)** For purposes of IC 14-33-14, the meaning set forth in
 20 IC 14-33-14-3.
 21 ~~(29)~~ **(30)** For purposes of IC 14-33-21, the meaning set forth in
 22 IC 14-33-21-1.
 23 ~~(30)~~ **(31)** For purposes of IC 14-34-6-15, the meaning set forth in
 24 IC 14-34-6-15.
 25 ~~(31)~~ **(32)** For purposes of IC 14-34-14, the meaning set forth in
 26 IC 14-34-14-1.
 27 ~~(32)~~ **(33)** For purposes of IC 14-37-10, the meaning set forth in
 28 IC 14-37-10-1.
 29 SECTION 6. IC 14-8-2-117 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 117. "Governing board"
 31 has the following meaning:
 32 **(1) For purposes of IC 14-24-4.5, the meaning set forth in**
 33 **IC 14-24-4.5-2(6).**
 34 **(2) For purposes of IC 14-28-5, has the meaning set forth in**
 35 **IC 14-28-5-3.**
 36 SECTION 7. IC 14-8-2-203 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 203. "Pest or pathogen"
 38 has the following meaning:
 39 **(1) Except as provided in IC 14-24-4.5, for purposes of**
 40 **IC 14-24, means: an:**
 41 **(1) (A) an arthropod;**
 42 **(2) (B) a nematode;**

C
o
p
y



1 ~~(3)~~ (C) a microorganism;
 2 ~~(4)~~ (D) a fungus;
 3 ~~(5)~~ (E) a parasitic plant;
 4 ~~(6)~~ (F) a mollusk;
 5 ~~(7)~~ (G) a plant disease; or
 6 ~~(8)~~ (H) an exotic weed;
 7 that may be injurious to nursery stock, agricultural crops, other
 8 vegetation, or bees.

9 **(2) For purposes of IC 14-24-4.5, the meaning set forth in**
 10 **IC 14-24-4.5-2(4).**

11 SECTION 8. IC 14-8-2-239.5 IS ADDED TO THE INDIANA
 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2004]: **Sec. 239.5. "Requesting state", for**
 14 **purposes of IC 14-24-4.5, has the meaning set forth in**
 15 **IC 14-24-4.5-2(2).**

16 SECTION 9. IC 14-8-2-242.5 IS ADDED TO THE INDIANA
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2004]: **Sec. 242.5. "Responding state", for**
 19 **purposes of IC 14-24-4.5, has the meaning set forth in**
 20 **IC 14-24-4.5-2(3).**

21 SECTION 10. IC 14-8-2-265 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 265. "State" has the**
 23 **following meaning:**

24 **(1) For purposes of IC 14-24-4.5, the meaning set forth in**
 25 **IC 14-24-4.5-2(1).**

26 **(2) For purposes of IC 14-28-1, IC 14-28-3, and IC 14-32, means**
 27 **the following:**

28 ~~(1)~~ (A) The Indiana state government.
 29 ~~(2)~~ (B) An agency, a subdivision, an officer, a board, a bureau,
 30 a commission, a department, a division, or an instrumentality
 31 of the state.

32 SECTION 11. IC 14-20-1-8 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE APRIL 1, 2004]: **Sec. 8. (a) The division**
 34 **consists of the following two (2) sections:**

35 (1) The section of museums.
 36 (2) The section of historic sites.

37 ~~(b) The division director may not serve as the head of a section of~~
 38 ~~the division.~~

39 ~~(c) An individual may not serve as the head of more than one (1)~~
 40 ~~section of the division.~~

41 ~~(d)~~ (b) There must be a separate line item for each section of the
 42 division in each bill appropriating money to the division.

C
o
p
y



SECTION 12. IC 14-20-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: Sec. 16. (a) The board of trustees for the division of state museums and historic sites is established.

(b) The trustees consist of thirteen (13) members as follows:

(1) The director of the department, who shall serve as chairman.

(2) Twelve (12) members appointed by the governor as follows:

(A) ~~One (1) member~~ **Three (3) members** of the Indiana State Museum ~~Society Foundation who are~~ nominated by the ~~Society. Foundation.~~

~~(B) One (1) member of the Indiana State Museum Volunteers nominated by the volunteers.~~

~~(C) (B)~~ **(B)** Two (2) members must be recognized supporters of historic sites **who are nominated by a recognized supporter of historic sites.**

~~(D) (C)~~ **(C)** Not more than seven (7) members may be members of the same political party.

~~(E) Not more than two (2) members may be from the same county.~~

~~(F) Each congressional district in Indiana must be represented by at least one (1) member.~~

(c) The terms of the appointed members shall be staggered.

(d) The governor shall make appointments under subsection (b) in a manner to achieve diversity and geographic balance among the trustees.

SECTION 13. IC 14-20-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: Sec. 22. The trustees shall do the following:

~~(1) Nominate, when the position of division director is vacant, a person to be appointed by the director to that position. If the director rejects a nominee's appointment, the trustees shall nominate another person.~~

~~(2) Recommend, when appropriate, the dismissal of a division director.~~

~~(3) Make recommendations concerning the salary ranges of the administrative, professional, and technical staff of the division.~~

~~(4) (1)~~ **(1)** Review the budget needs and requests of the division and make recommendations concerning the needs and requests to the governor through the director.

~~(5) (2)~~ **(2)** Recommend that the department accept or reject, hold, or dispose of grants of property to be administered by the division for the purpose of preservation, research, or interpretation of

C
o
p
y



significant areas, events, or grants to citizens of Indiana for the purpose of preserving, studying, and interpreting archeological and natural phenomena, cultural trends, and accomplishments.

~~(6)~~ (3) Review, guide, and assist in the development of statewide outreach programs.

~~(7)~~ (4) Review, guide, and assist in the development of professionalism of the staff and operations.

~~(8)~~ (5) Review, recommend, and devise methods to enable the division to do the following:

~~(1)~~ (A) Increase the division's physical plant.

~~(2)~~ (B) Expand the educational areas.

~~(3)~~ (C) Meet storage needs.

~~(9)~~ (6) Develop a plan of growth to meet physical, program, and financial needs for both the immediate and long range future, monitor the plan at regular intervals, and ensure that the institution stays within the developed plan.

~~(10)~~ (7) Recommend policies, procedures, and practices that the commission, the director, and the secretary shall consider.

~~(11)~~ (8) Give advice or make recommendations to the governor and the general assembly when requested or on the initiative of the trustees.

~~(12)~~ (9) Review the conduct of the work of the division. To implement this duty, the trustees have access at any reasonable time to copies of all records pertaining to the work of the division.

~~(13)~~ (10) Adopt bylaws consistent with this chapter for the division's internal control and management and file a copy of the bylaws with the director.

~~(14)~~ (11) Hold meetings at the times and places in Indiana that are prescribed by the bylaws, but at least quarterly.

~~(15)~~ (12) Keep minutes of the transactions of each regular and special meeting and file the minutes with the director. The minutes are public records.

~~(16)~~ (13) Promote the welfare of the division.

~~(17)~~ (14) Make recommendations concerning the administration of the fund established by section 24 of this chapter.

SECTION 14. IC 14-20-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]:

Chapter 1.1. Historic Site Fund

Sec. 1. As used in this chapter, "fund" refers to the historic site fund established as a dedicated fund by section 2 of this chapter.

Sec. 2. (a) The historic site fund is established to provide funding

C
o
p
y



for educational programs and the operation of historic sites. The fund shall be administered by the division.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund is annually appropriated to the division for purposes established in this section.

Sec. 3. (a) Fees collected under IC 14-10-2-1(5) and proceeds from sales and leases under IC 14-20-1-23(b) shall be deposited in the fund.

(b) At least fifty-one percent (51%) of the fees collected under IC 14-10-2-1(5) from a particular historic site must be used for:

- (1) educational programs conducted at the historic site; and
- (2) the maintenance and operation of the historic site.

SECTION 15. IC 14-24-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 4.5. Pest Control Compact

Sec. 1. (a) The pest control compact is enacted and entered into with all other jurisdictions legally joining the compact in the form substantially as follows in this chapter.

(b) The party states find the following:

- (1) In the absence of the higher degree of cooperation among the party states possible under this compact, the annual loss of approximately one hundred thirty-seven billion dollars (\$137,000,000,000) from the depredations of pests is virtually certain to continue, if not to increase.
- (2) Because of the varying climatic, geographic, and economic factors, each state may be affected differently by particular species of pests. However, all states share the inability to protect themselves fully against the pests that present serious dangers.
- (3) The migratory character of pest infestations makes it necessary for states to complement each other's activities when faced with conditions of infestation and reinfestation.
- (4) While every state is seriously affected by a substantial number of pests, and every state is susceptible to infestation by many species of pests not causing damage to its crops,

**C
o
p
y**



plant life, and products, the fact that relatively few species of pests present equal danger to, or are of interest to, all states makes the establishment and operation of a fund from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interest, the most equitable means of financing cooperative pest eradication and control programs.

Sec. 2. As used in this chapter:

(1) "State" means a state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) "Requesting state" means a state that invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one (1) or more pests within one (1) or more other states.

(3) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (2).

(4) "Pest or pathogen" means an invertebrate animal, a pathogen, a parasitic plant, or a similar or an allied organism that can cause disease or damage in any crop, tree, shrub, grass, or other plant of substantial value.

(5) "Fund" means the pest control insurance fund established by section 3 of this chapter.

(6) "Governing board" means the administrators of the compact representing all the party states when the administrators act as a body under authority vested in the administrators by the compact.

(7) "Executive committee" means the committee established under section 5(e) of this chapter.

(8) "Compact" refers to the pest control compact adopted under section 1(a) of this chapter.

Sec. 3. The pest control insurance fund is established to finance other than normal pest control operations that states may be called upon to engage in under the compact. The fund consists of money appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in the compact, must be unconditional and may not be restricted by the appropriating state to use in the control of a specified pest or pests. Donations and grants may be conditional or unconditional. However, the fund may not accept any donation or grant whose

**C
o
p
y**



terms are inconsistent with the compact.

Sec. 4. (a) The fund shall be administered by the governing board and executive committee as provided in this chapter. The actions of the governing board and the executive committee under the compact are considered the actions of the fund.

(b) The members of the governing board are entitled to one (1) vote on the board. Action of the governing board is not binding unless taken at a meeting at which a majority of the total number of votes on the governing board is cast in favor of the proposed action. Action of the governing board may be only at a meeting at which a majority of the members is present.

(c) The fund shall have a seal that may be employed as an official symbol and that may be affixed to documents and used as the governing board provides.

(d) The governing board shall elect annually, from among its members, a chairperson, a vice chairperson, a secretary, and a treasurer. The chairperson may not serve consecutive terms. The governing board may appoint an executive director and fix the executive director's duties and compensation, if any. The executive director shall serve at the pleasure of the governing board. The governing board shall provide for the bonding of the officers and employees of the fund as is appropriate.

(e) Notwithstanding the civil service, personnel, or other merit system laws of any of the party states, the executive director, or if there is not an executive director, the chairperson, in accordance with the procedures the bylaws provide, shall appoint, remove, or discharge any personnel as is necessary to perform the functions of the fund and shall fix the duties and compensation of any personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the fund.

(f) The fund may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency or from any person, firm, association, or corporation.

(g) The fund may accept for its purposes or functions under this compact donations, grants, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation and may receive, use, and dispose of the same. A donation, gift, or grant accepted by the governing board under this subsection or services borrowed under subsection (f) shall be reported in the annual report of the fund. The annual

C
O
P
Y



1 report must include the nature, amount, and conditions, if any, of
 2 the donation, gift, or grant or services borrowed and the identity
 3 of the donor or lender.

4 (h) The governing board shall adopt bylaws for the conduct of
 5 the business of the fund and may amend and rescind these bylaws.
 6 The fund shall publish its bylaws in convenient form and shall file
 7 a copy of the bylaws and a copy of any amendment to the bylaws
 8 with the appropriate agency or officer in each of the party states.

9 (i) The fund annually shall make to the governor and legislature
 10 of each party state a report covering the fund's activities for the
 11 preceding year. The fund may make additional reports it considers
 12 desirable.

13 (j) The fund may do other things as are necessary and incidental
 14 to the conduct of its affairs under the compact.

15 Sec. 5. (a) Each party state must have a compact administrator
 16 who shall be selected and serve in a manner as the laws of the party
 17 state may provide and who shall:

18 (1) assist in the coordination of activities under the compact
 19 in the compact administrator's state; and

20 (2) represent the compact administrator's state on the
 21 governing board of the fund.

22 (b) If the laws of the United States specifically provide, or if an
 23 administrative provision is made within the federal government,
 24 the United States may be represented on the governing board by
 25 not more than three (3) representatives. A representative of the
 26 United States shall be appointed and serve in a manner as provided
 27 by federal law, but the representative may vote on the governing
 28 board or the executive committee.

29 (c) The governing board shall meet at least once each year to
 30 determine policies and procedures in the administration of the
 31 fund and, consistent with the compact, supervise and give direction
 32 to the expenditure of money from the fund. Additional meetings of
 33 the governing board shall be held on call of the chairperson, the
 34 executive committee, or a majority of the governing board.

35 (d) When the governing board meets, it shall act upon
 36 applications for assistance from the fund and authorize
 37 disbursements from the fund. When the governing board is not
 38 meeting, the executive committee shall act as agent of the
 39 governing board, with full authority to act for the governing board
 40 in acting upon the applications for assistance.

41 (e) The executive committee consists of the chairperson of the
 42 governing board and four (4) additional members of the governing

C
o
p
y



board chosen by the governing board so that one (1) member represents each of four (4) geographic groupings of party states. The governing board shall make the geographic groupings. If there is representation of the United States on the governing board, one (1) United States representative may meet with the executive committee. The chairperson of the governing board shall be chairperson of the executive committee. No action of the executive committee is binding unless taken at a meeting at which at least four (4) members of the committee are present and vote in favor of the action. Necessary expenses of each of the five (5) members of the executive committee incurred in attending meetings of the committee, when not held at the same time and place as a meeting of the governing board, are charges against the fund.

Sec. 6. (a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, all pests or pathogens. The performance of this responsibility involves the following:

(1) The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for the party state's own protection in the absence of the compact.

(2) The meeting of emergency outbreaks or infestations of interstate significance to not less an extent than would have been done in the absence of the compact.

(b) Whenever a party state is threatened by a pest or pathogen not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pathogen, and finds that control or eradication activities are or would be impracticable or substantially more difficult to accomplish because of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the fund for eradication or control measures to be taken by one (1) or more of the other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon the governing board's authorization, the responding state or states shall take or increase any eradication or control measures warranted. A responding state shall use money available from the fund expeditiously and efficiently to assist in providing the protection requested.

(c) To apply for expenditures from the fund, a requesting state

C
O
P
Y



shall submit the following in writing:

(1) A detailed statement of the circumstances that occasion the request to invoke the compact.

(2) Evidence that the pest or pathogen on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or a forest crop, product, tree, shrub, grass, or other plant having a substantial value to the requesting state.

(3) A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of the program or programs and the expenditures being made or budgeted for the program or programs, in connection with the eradication, control, or prevention of introduction of the pest or pathogen concerned.

(4) Proof that the expenditures being made or budgeted as detailed in subdivision (3) do not constitute a reduction of the effort for the control or eradication of the pest or pathogen concerned or, if there is a reduction, the reasons why the level of program detailed in subdivision (3) constitutes a normal level of pest control activity.

(5) A declaration as to whether, to the best of its knowledge and belief, the conditions that the requesting state believes require the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of money from the fund in one (1) year or less, or whether the request is for an installment in a program that is likely to continue for a longer period.

(6) Other information the governing board requires consistent with the compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the fund is to be considered. The notice shall be given to the compact administrator of each party state and to the other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state are entitled to be represented and present evidence and argument at the meeting.

(e) Upon the submission as required by subsection (c) and any other information that the governing board has or acquires, and upon determining that an expenditure of funds is within the purposes of and justified by the compact, the governing board or executive committee shall authorize support of the program. The

C
O
P
Y



governing board or executive committee may meet at any time or place to receive and consider an application. All determinations of the governing board or executive committee, with respect to an application, together with the reasons for the determination shall be recorded and subscribed in a manner that shows and preserves the votes of the individual members of the board or committee.

(f) A requesting state that is dissatisfied with a determination of the executive committee, upon notice in writing given within twenty (20) days of the determination with which it is dissatisfied, is entitled to receive a review of the determination at the next meeting of the governing board. Determinations of the executive committee are reviewable only by the governing board at one (1) of its regular meetings or at a special meeting held in a manner the governing board authorizes.

(g) Responding states required to undertake or increase measures under the compact may receive money from the fund, either at the time or times when the state incurs expenditures because of the measures, or as reimbursement for expenses incurred and chargeable to the fund. The governing board shall adopt and may amend or revise procedures for submission and payment of claims from the fund.

(h) Before authorizing the expenditure of money from the fund under an application of a requesting state, the fund shall ascertain the extent and nature of any timely assistance or participation that is available from the federal government and shall request the appropriate agency or agencies of the federal government for any available assistance and participation.

(i) The fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the fund, cooperating federal agencies, states, and any other entities concerned.

Sec. 7. The governing board may establish advisory and technical committees composed of state, local, and federal officials and private persons to advise the governing board concerning any of its functions. An advisory or technical committee or a member or members of the committee may meet with and participate in the governing board's deliberations upon request of the governing board or executive committee. An advisory or a technical committee may furnish information and recommendations concerning any application for assistance from the fund being considered by the governing board or committee and the governing

C
O
P
Y



board or committee may receive and consider the same. However, a participant in a meeting of the governing board or executive committee held under section 6(d) of this chapter is entitled to know the substance of the advisory or technical committee's information and recommendations, at the time of the meeting if made before the meeting or as a part of the meeting or, if made after the meeting, not later than the time at which the governing board or executive committee makes its disposition of the application.

Sec. 8. (a) A party state may make an application for assistance from the fund concerning a pest in a nonparty state. The application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this section.

(b) At or in connection with any meeting of the governing board or executive committee held under section 6(d) of this chapter, a nonparty state is entitled to appear, participate, and receive information only to the extent as the governing board or executive committee may provide. A nonparty state is not entitled to review of a determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the fund to be made in a nonparty state only after determining that the conditions in the nonparty state and the value of the expenditures to the party states as a whole justify the expenditures. The governing board or executive committee may set any conditions it considers appropriate concerning the expenditure of money from the fund in a nonparty state and may enter into an agreement or agreements with nonparty states and other jurisdictions or entities as it considers necessary or appropriate to protect the interests of the fund with respect to expenditures and activities outside party states.

Sec. 9. (a) The fund shall submit to the executive head or designated officer or officers of each party state a budget for the fund for a period as may be required by the laws of that party state for a presentation to the party state's legislature.

(b) Each of the budgets must contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The request for appropriations shall be apportioned among the party states as follows:

(1) One-tenth (0.1) of the total budget in equal shares.

(2) The remainder in proportion to the value of

C
O
P
Y



1 agricultural and forest crops and products, excluding
 2 animals and animal products, produced in each party
 3 state.

4 In determining the value of the party states' crops and products,
 5 the fund may employ any source of information it believes presents
 6 the most equitable and accurate comparisons among the party
 7 states. Each of the budgets and requests for appropriations must
 8 indicate the source or sources used in obtaining information
 9 concerning value of products.

10 (c) The financial assets of the fund shall be maintained in two (2)
 11 accounts to be designated respectively as the "operating account"
 12 and the "claims account". The operating account consists only of
 13 those assets necessary for the administration of the fund during the
 14 ensuing two (2) year period. The claims account must contain all
 15 money not included in the operating account and may not exceed
 16 the amount reasonably estimated to be sufficient to pay all
 17 legitimate claims on the fund for three (3) years. If the claims
 18 account has reached its maximum limit or would reach its
 19 maximum limit by the addition of money requested for
 20 appropriation by the party states, the governing board shall reduce
 21 the budget requests on a pro rata basis in a manner that keeps the
 22 claims account within its maximum limit. Any money in the claims
 23 account by virtue of conditional donations, grants, or gifts shall be
 24 included in calculations made under this subsection only to the
 25 extent that the money is available to meet demands arising out of
 26 the claims.

27 (d) The fund shall not pledge the credit of any party state. The
 28 fund may meet any of its obligations in whole or in part with
 29 money available to it under section 4(g) of this chapter. However,
 30 the governing board takes specific action setting aside the money
 31 before incurring any obligation to be met in whole or in part.
 32 Except where the fund makes use of money available to it under
 33 section 4(g) of this chapter, the fund shall not incur any obligation
 34 before the allotment of money by the party states adequate to meet
 35 the obligation.

36 (e) The fund shall keep accurate accounts of all receipts and
 37 disbursements. The receipts and disbursements of the fund are
 38 subject to the audit and accounting procedures established under
 39 its bylaws. However, all receipts and disbursements of funds
 40 handled by the fund shall be audited yearly by a certified or
 41 licensed public accountant and report of the audit must be included
 42 in and become part of the annual report of the fund.

C
O
P
Y



1 (f) The accounts of the fund must be open at any reasonable
2 time for inspection by authorized officers of the party states and by
3 any persons authorized by the fund.

4 Sec. 10. (a) The compact becomes effective when enacted into
5 law by any five (5) or more states. After the compact becomes
6 effective, the compact becomes effective as to any other state upon
7 the state's enactment of the compact.

8 (b) A party state may withdraw from the compact by enacting
9 a statute repealing the law enacting the compact, but a withdrawal
10 does not take effect until two (2) years after the executive head of
11 the withdrawing state gives notice in writing of the withdrawal to
12 the executive heads of all other party states. A withdrawal does not
13 affect any liability incurred by or chargeable to a party state
14 before the time of the withdrawal.

15 Sec. 11. This compact shall be liberally construed to effectuate
16 the purposes of the compact. The provisions of the compact are
17 severable and if any phrase, clause, sentence, or provision of this
18 compact is declared to be contrary to the constitution of any state
19 or of the United States or the applicability of the compact to any
20 government, agency, person, or circumstance is held invalid, the
21 validity of the remainder of the compact and its applicability to any
22 government, agency, person, or circumstance is not affected
23 thereby. If this compact is held contrary to the constitution of any
24 party state the compact remains in full force and effect as to the
25 remaining party states and in full force and effect as to the party
26 state affected as to all severable matters.

27 Sec. 12. Consistent with law and within available
28 appropriations, the departments, agencies, and officers of Indiana
29 may cooperate with the fund.

30 Sec. 13. (a) The commissioner of agriculture or the
31 commissioner's designee shall serve as compact administrator for
32 Indiana. The duties of the compact administrator are considered
33 a regular part of the duties of the commissioner of agriculture.

34 (b) Copies of bylaws and amendments to the compact adopted
35 under section 4(h) of this chapter must be filed with the compact
36 administrator.

37 Sec. 14. Within the meaning of sections 6(b) and 8(a) of this
38 chapter, a request or application for assistance from the fund may
39 be made by the commissioner of agriculture or the commissioner's
40 designee whenever the commissioner or commissioner's designee
41 believes the conditions qualifying Indiana for assistance exist and
42 it would be in the best interest of Indiana to make a request.

C
o
p
y



1 **Sec. 15. The compact administrator is designated to receive**
 2 **notices under section 6(d) of this chapter.**

3 **Sec. 16. The department, agency, or officer expending or**
 4 **becoming liable for an expenditure on account of a control or**
 5 **eradication program undertaken or intensified under the compact**
 6 **shall have credited to the department's, agency's, or officer's**
 7 **account, in the state treasury the amount or amounts of any**
 8 **payments made to Indiana to defray the cost of the program or any**
 9 **part of the program, or as reimbursement from the program.**

10 **Sec. 17. When the compact refers to the executive head, with**
 11 **reference to Indiana, the executive head is the governor.**

12 **SECTION 16. IC 14-37-13-3 IS AMENDED TO READ AS**
 13 **FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The commission may**
 14 **assess against a person who violates:**

15 (1) this article or IC 13-8 (before its repeal); or

16 (2) a rule adopted under this article (or IC 13-8 before its repeal);
 17 a civil penalty of not more than ~~ten~~ **twenty** thousand dollars ~~(\$10,000)~~
 18 **(\$20,000)** for each day the violation occurs. The penalty may be
 19 recovered and the violator may be enjoined from continuing the
 20 violation in a civil action.

21 **SECTION 17. IC 14-37-13-6 IS AMENDED TO READ AS**
 22 **FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) Except as**
 23 **provided in ~~subsection~~ subsections (b) and (c), a person who**
 24 **knowingly violates this article commits a Class B misdemeanor. Each**
 25 **day a violation occurs is a separate offense.**

26 (b) A person who knowingly violates this article **or a rule adopted**
 27 **under this article** with respect to the operation of a Class II well
 28 commits a Class D felony. **Each day a violation occurs is a separate**
 29 **offense.**

30 (c) **A person who knowingly falsifies any written certification or**
 31 **verification required under this article or a rule adopted under this**
 32 **article commits a Class D felony. Each falsified certification or**
 33 **verification is a separate offense.**

34 **SECTION 18. An emergency is declared for this act.**

C
O
P
Y



COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 183, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 3. IC 14-8-2-77, AS AMENDED BY P.L.145-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: Sec. 77. "Division" has the following meaning:

- (1) For purposes of IC 14-9-8, the meaning set forth in IC 14-9-8-2.
- (2) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-2.
- (3) For purposes of **IC 14-20-1.1** and IC 14-21-1, the meaning set forth in IC 14-21-1-6.
- (4) For purposes of IC 14-22, the division of fish and wildlife.
- (5) For purposes of IC 14-24, the division of entomology and plant pathology.
- (6) For purposes of IC 14-25.5, the division of water.
- (7) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.
- (8) For purposes of IC 14-37, the division of oil and gas."

Page 3, line 13, after "(13)" insert **"For purposes of IC 14-20-1.1, the meaning set forth in IC 14-20-1.1-1.**

(14)".

Page 3, line 15, strike "(14)" and insert **"(15)".**

Page 3, line 17, strike "(15)" and insert **"(16)".**

Page 3, line 19, strike "(16)" and insert **"(17)".**

Page 3, line 21, strike "(17)" and insert **"(18)".**

Page 3, line 23, strike "(18)" and insert **"(19)".**

Page 3, line 25, strike "(19)" and insert **"(20)".**

Page 3, line 27, strike "(20)" and insert **"(21)".**

Page 3, line 29, strike "(21)" and insert **"(22)".**

Page 3, line 31, strike "(22)" and insert **"(23)".**

Page 3, line 33, strike "(23)" and insert **"(24)".**

Page 3, line 35, strike "(24)" and insert **"(25)".**

Page 3, line 37, strike "(25)" and insert **"(26)".**

Page 3, line 39, strike "(26)" and insert **"(27)".**

Page 3, line 41, strike "(27)" and insert **"(28)".**

Page 4, line 1, strike "(28)" and insert **"(29)".**

Page 4, line 3, strike "(29)" and insert **"(30)".**

C
o
p
y



Page 4, line 5, strike "(30)" and insert "**(31)**".

Page 4, line 7, strike "(31)" and insert "**(32)**".

Page 4, line 9, strike "(32)" and insert "**(33)**".

Page 5, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 11. IC 14-20-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: Sec. 8. (a) The division consists of the following two (2) sections:

(1) The section of museums.

(2) The section of historic sites.

~~(b) The division director may not serve as the head of a section of the division.~~

~~(c) An individual may not serve as the head of more than one (1) section of the division.~~

~~(d)~~ **(b)** There must be a separate line item for each section of the division in each bill appropriating money to the division.

SECTION 12. IC 14-20-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: Sec. 16. (a) The board of trustees for the division of state museums and historic sites is established.

(b) The trustees consist of thirteen (13) members as follows:

(1) The director of the department, who shall serve as chairman.

(2) Twelve (12) members appointed by the governor as follows:

~~(A) One (1) member~~ **Three (3) members** of the Indiana State Museum ~~Society Foundation who are~~ nominated by the ~~Society Foundation.~~

~~(B) One (1) member of the Indiana State Museum Volunteers nominated by the volunteers.~~

~~(C)~~ **(B)** Two (2) members must be recognized supporters of historic sites **who are nominated by a recognized supporter of historic sites.**

~~(D)~~ **(C)** Not more than seven (7) members may be members of the same political party.

~~(E) Not more than two (2) members may be from the same county.~~

~~(F) Each congressional district in Indiana must be represented by at least one (1) member.~~

(c) The terms of the appointed members shall be staggered.

(d) The governor shall make appointments under subsection (b) in a manner to achieve diversity and geographic balance among the trustees.

SECTION 13. IC 14-20-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: Sec. 22. The trustees shall

C
o
p
y



do the following:

- ~~(1)~~ **Nominate**, when the position of division director is vacant, a person to be appointed by the director to that position. If the director rejects a nominee's appointment, the trustees shall nominate another person.
- ~~(2)~~ **Recommend**, when appropriate, the dismissal of a division director.
- ~~(3)~~ **Make recommendations concerning the salary ranges of the administrative, professional, and technical staff of the division.**
- ~~(4)~~ **(1)** Review the budget needs and requests of the division and make recommendations concerning the needs and requests to the governor through the director.
- ~~(5)~~ **(2)** Recommend that the department accept or reject, hold, or dispose of grants of property to be administered by the division for the purpose of preservation, research, or interpretation of significant areas, events, or grants to citizens of Indiana for the purpose of preserving, studying, and interpreting archeological and natural phenomena, cultural trends, and accomplishments.
- ~~(6)~~ **(3)** Review, guide, and assist in the development of statewide outreach programs.
- ~~(7)~~ **(4)** Review, guide, and assist in the development of professionalism of the staff and operations.
- ~~(8)~~ **(5)** Review, recommend, and devise methods to enable the division to do the following:
 - ~~(1)~~ **(A)** Increase the division's physical plant.
 - ~~(2)~~ **(B)** Expand the educational areas.
 - ~~(3)~~ **(C)** Meet storage needs.
- ~~(9)~~ **(6)** Develop a plan of growth to meet physical, program, and financial needs for both the immediate and long range future, monitor the plan at regular intervals, and ensure that the institution stays within the developed plan.
- ~~(10)~~ **(7)** Recommend policies, procedures, and practices that the commission, the director, and the secretary shall consider.
- ~~(11)~~ **(8)** Give advice or make recommendations to the governor and the general assembly when requested or on the initiative of the trustees.
- ~~(12)~~ **(9)** Review the conduct of the work of the division. To implement this duty, the trustees have access at any reasonable time to copies of all records pertaining to the work of the division.
- ~~(13)~~ **(10)** Adopt bylaws consistent with this chapter for the division's internal control and management and file a copy of the bylaws with the director.

C
o
p
y



~~(14)~~ **(11)** Hold meetings at the times and places in Indiana that are prescribed by the bylaws, but at least quarterly.

~~(15)~~ **(12)** Keep minutes of the transactions of each regular and special meeting and file the minutes with the director. The minutes are public records.

~~(16)~~ **(13)** Promote the welfare of the division.

~~(17)~~ **(14)** Make recommendations concerning the administration of the fund established by section 24 of this chapter.

SECTION 14. IC 14-20-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]:

Chapter 1.1. Historic Site Fund

Sec. 1. As used in this chapter, "fund" refers to the historic site fund established as a dedicated fund by section 2 of this chapter.

Sec. 2. (a) The historic site fund is established to provide funding for educational programs and the operation of historic sites. The fund shall be administered by the division.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund is annually appropriated to the division for purposes established in this section.

Sec. 3. (a) Fees collected under IC 14-10-2-1(5) and proceeds from sales and leases under IC 14-20-1-23(b) shall be deposited in the fund.

(b) At least fifty-one percent (51%) of the fees collected under IC 14-10-2-1(5) from a particular historic site must be used for:

- (1) educational programs conducted at the historic site; and**
- (2) the maintenance and operation of the historic site."**

Page 15, after line 28, begin a new paragraph and insert:

"SECTION 18. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 183 as introduced.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 6, Nays 0.

SB 183—LS 6694/DI 77+



C
O
P
Y